THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :14476 of 2006

DATED:11-06-2007

BETWEEN:

Kadam Gajalakshmi.

..... PETITIONER

AND

The Superintendent of Police,
Chittoor,
Chittoor District & 7 others.

.....RESPONDENTS

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents 1 to 3 in not filing any report or chargesheet after conducting investigation/enquiry in Cr.No.148 of 2005, dated 02-11-2005, II Town Police Station, Madanapalle registered under Sections 420 and

493 IPC against the 5th respondent and also in C.C.Sr.No.8100 of 2005, dated 30-12-2005, on the file of the Judicial First Class Magistrate, Madanapalle against the respondents 5 to 8 under Sections 420 and 493 IPC, as illegal and arbitrary.

3. It is the case of the petitioner that pursuant to the written intimation alleging that the 5th respondent having promised to marry the petitioner lived as a husband, had sexual intercourse with her by cheating her, police registered Cr.No.148 of 2005 on 02-11-2005 of Madanapalli II Town Police Station, Chittoor for the offence punishable under Sections 420 and 493 IPC but the investigation is not yet completed and the accused were not arrested. It is stated that the petitioner filed a private complaint vide C.C(SR) No.8100 of 2005, dated 30-12-2005, on the file of the

Judicial First Class Magistrate, Madanapalle against the respondents 5 to 8 for the offence punishable under Sections 420 and 493 IPC and accordingly the police registered F.I.R.No.92 of 2006 under Sections 420, 493 and 498-A IPC.

4. It is stated that the police are not completing investigation and allowing the 5th respondent to leave the country.

5. Counter has been filed by the 3rd respondent-Sub-Inspector of police, II Town police station, Madanapalle stating that insofar as Cr.No.148 of 2005 is concerned investigation is completed and the investigation made so far discloses that there are financial dealings between the family of the petitioner and the 5th respondent-accused and further investigation reveals that the petitioner and the 5th respondent fell in love with each other but there is no evidence to show that the accused married the petitioner at Tirumala. It is stated that final report has been prepared and the same was sent to the Sub-Divisional Police Officer, Madanapalle for obtaining permission for referring the case as 'false' and permission is yet to be obtained and as and when permission is obtained he will file the final report.

6. Insofar as the private complaint is concerned, it is stated that after receiving the complaint on 10-08-2006 3rd respondent registered Cr.No.92 of 2006 for the offences punishable under Sections 420, 493 and 498-A IPC against the respondents 2 to 8 and investigation is entrusted to the Head Constable and the same is still pending.

7. I am of the opinion that when the case has been registered in the month of August, 2006 there is no justification in not completing the investigation. Insofar as the action of the respondents in filing the final report as false in Cr.No.148 of 2005 is concerned if any final report is filed it is open for the petitioner to file a protest application. Merely because any final report is filed as 'false' it need not be accepted as it is for the learned Magistrate to take appropriate action in accordance with the provisions of Section 159 of the Code of Criminal Procedure.

8. Insofar as F.I.R.No.92 of 2006 is concerned, respondents 1 to 3 are directed to complete the investigation as expeditiously as possible and take appropriate action in accordance with law without any undue delay.

9. Writ Petition is accordingly disposed of with a liberty to the petitioner to take all appropriate steps in both the crimes in accordance with the provisions of the Code of Criminal Procedure.

No order as to costs.

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V.ESWARAIAH,J

11th June, 2007.

Note:

Furnish C.C. of the order within one week.

B/o

Tsy